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**I.     COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**ELEMENTS OF TAX NOTICE & PUBLICATION - continued:**

**1.    Compliance Requirements - continued:**

- c. the taxable value of the property,
  - d. the total mill levy applied to that taxable property,
  - e. the value of each mill in that county (**deleted, effective July 1, 2005**),
  - f. itemized city services and special improvement district assessments collected by the county,
  - g. the number of the school district in which the property is located, and
  - h. the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax.
  - i. If the property is the subject of a tax sale for which a tax sale certificate has been issued under Section 15-17-212, MCA, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax sale and that the taxpayer may contact the county treasurer for complete information.
- (Section 15-16-101, MCA)

- The tax notices mailed to each taxpayer should also include notification of the \$5 minimum tax requirement, if applicable. (Section 15-16-118, MCA)
- Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying the tax payment due dates and the penalties to be assessed on delinquent taxes. (Section 15-16-101, MCA)

**Suggested Audit Procedures:**

- Review selected tax notices, including ones that were subject to a tax sale, to determine if they include all of the required information as specified above.
- Verify that the county treasurer published a notice specifying the tax payment due dates and the penalties to be assessed on delinquent taxes within 10 days of receipt of the property tax record.

**TAX PAYMENT DUE DATES:**

**2.    Compliance Requirements:**

- All taxes levied and assessed are payable as follows:
    - a. One-half payable on or before November 30 or within 30 days after the tax notice is postmarked, whichever is later; and
    - b. One-half payable on or before May 31.
- (Section 15-16-101 and 102, MCA)

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**I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**TAX PAYMENT DUE DATES - continued:**

**2. Compliance Requirements - continued:**

**(Note: If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with Section 1-1-307, MCA (Section 15-16-102, MCA))**

- Taxes on mobile homes, manufactured homes and housetrailerers not taxed as an improvement (taxed as personal property) are due as follows:
  - a. the first payment is due on or before May 31 or within 30 days from the date of the tax notice, whichever is later, and
  - b. the second payment is due no later than November 30 of the year in which the property is assessed. (Section 15-24-202, MCA)
- **Effective October 1, 2005:** The following exceptions also apply to the above "Tax Payment Due Dates":
  - (a) All taxes, whether on real or personal property, due on property owned by a resident of Montana in the military service, as defined by section 511 of the Service members Civil Relief Act, 50 App. U.S.C. 511, as amended, while serving outside of Montana must be suspended.
  - (b) Proceedings may not be taken for the collection of the taxes and penalties or interest may not accrue until 1 year after the cessation of hostilities or 1 year after the taxpayer is released from active duty.
  - (c) If the taxpayer was wounded, injured, or suffered a disease while serving in a combat zone or participating in a contingency operation as described in 10 U.S.C. 101(a)(13) that is serious enough to require hospitalization, proceedings may not be taken and penalties or interest may not accrue until 1 year after the taxpayer's release from the hospitalization.  
(Section 10-1-606, MCA)

**(Note: To obtain the benefits the qualified taxpayer or a co-owner of the property or agent of the taxpayer shall file with the treasurer of the county an affidavit stating that the person against whom the taxes are imposed is in military service. The affidavit must be filed on or before the time that taxes would become delinquent. (Section 10-1-606, MCA))**

- Special assessments that a city or town certifies to the county require payment as follows, except as explained in the note below: (Section 7-12-4181, 7-12-4188 and 15-16-103, MCA)
  - a. One-half the payment on or before November 30;
  - b. One-half the payment on or before May 31.

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**TAX PAYMENT DUE DATES - continued:**

**2.    Compliance Requirements - continued:**

(Note: All bond issues dated prior to March 20, 1979, and many issues dated from March 20, 1979, through April 30, 1985, were set up with a single annual payment of principal and interest. The time of the payment was established based on a single November assessment payment. Therefore, for certain S.I.D. debt service funds, the assessments may still be collected entirely in November because of the required time for the principal and interest payment. There should be very few of these left outstanding.)

- Property tax payments deposited in the United States mail on or before payment deadlines, as shown by the postmark on the envelope received by the Treasurer's office, are considered timely paid irrespective of the date upon which such payment is actually received by the County Treasurer. (A.G.O. No. 12, Vol. 40)

**Suggested Audit Procedures:**

- Review selected tax notices and determine if the taxes were due on the dates specified above.
- Review selected billing notices to determine if the special assessments certified by cities or towns to the county for collection were due on the dates specified above.

**MINIMUM TAX ASSESSMENT:**

**3.    Compliance Requirement:**

- If the taxes and special assessments due for the current year are less than \$5, the county must notify the taxpayer that a minimum tax of \$5 is due. The difference between the taxes and special assessments and the minimum tax of \$5 will go to the county general fund. (Section 15-16-118, MCA)

**Suggested Audit Procedure:**

- As part of testing of property tax revenue, determine that no tax notices with an amount due of less than \$5 are sent to taxpayers. If a tax notice is for \$5, determine if the difference between the actual taxes and special assessments due and the minimum payment of \$5 is deposited to the county general fund.

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**I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**PENALTY FOR DELINQUENCIES:**

**4. Compliance Requirements:**

- Interest on delinquent real and personal property taxes must be charged at a rate of 5/6 of 1% a month. A 2% penalty will also be added to the delinquent taxes. (Section 15-16-102, MCA)
- Interest on delinquent taxes on mobile homes, manufactured homes, or house trailers that are not taxed as an improvement must be charged at a rate of 5/6 of 1% per month. A 2% penalty will also be added to the delinquent taxes. If a mobile home is moved and the taxes have not been paid in full, there will be an additional penalty of 20% or \$50, whichever is greater. (Sections 15-24-202 and 15-16-102, MCA)

**(Note: See Compliance Requirement No. 2, above. For property owners in military service who are serving outside of Montana or who are hospitalized as specified in Section 10-1-606, MCA, penalties or interest on delinquent taxes may not accrue until 1 year after the cessation of hostilities or 1 year after the taxpayer is released from active duty, or 1 year after the taxpayer's release from the hospitalization.)**

- Interest on delinquent special assessments that a city or town certifies to the county must be charged at a rate of 5/6 of 1% a month. A 2% penalty will also be added to the delinquent taxes. (Section 7-12-4188 and 15-16-102, MCA)
- The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer. (Sections 15-16-102(6) and 15-16-103, MCA)
- One-half of the taxes are due on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half is payable on or before May 31. If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with Section 1-1-307, MCA (Section 15-16-102, MCA)
- If taxes on property qualifying under the low-income property tax assistance provisions of Sections 15-6-134(1)(c) and 15-6-191, MCA are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due. (Section 15-16-102, MCA)

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**I.     COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**PENALTY FOR DELINQUENCIES - continued:**

**Suggested Audit Procedures:**

- As part of testing of property tax revenue, test selected interest and penalties on delinquent taxes to determine if the rates are charged as stated above.
- Determine if the city council waived any penalty and interest payments on delinquent assessment. If so, verify that a resolution was prepared and certified to the county treasurer.
- Determine if there was any property qualifying under the low-income property tax assistance provisions. If so, verify that any penalty and interest on late payments were in accordance with the provisions specified above.

**RECEIPT OF PAYMENT IN ASSESSMENT BOOK:**

**5.    Compliance Requirement:**

- The county treasurer must note the date and the amount of the payment of any tax in the property tax record (assessment book) and issue a receipt to the person paying the tax. If, however, the payment is received through the mail or by electronic means, the treasurer shall issue a receipt only on request of the person paying the tax.  
(Section 15-16-104, MCA)

**Suggested Audit Procedure:**

- Review the county treasurer's property tax records to determine if the dates and amounts of property tax payments are recorded.

**PAYMENT OF DELINQUENT TAXES:**

**6.    Compliance Requirements:**

- A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, provided that taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year. (Section 15-16-102(5)(a), MCA)

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**I.     COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**PAYMENT OF DELINQUENT TAXES - continued:**

**6.     Compliance Requirements - continued:**

- A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of the above compliance requirement is not a partial payment.  
(Section 15-16-102(5)(b), MCA)

**Suggested Audit Procedures:**

- As part of testing of property tax revenue, test selected delinquent tax payments to determine if the payments were made as described above.
- Determine if there were any co-owners of an undivided ownership interest that is subject to a separate assessment. If so, verify that those payments were not recorded as a partial payment.

**CORRECTION OF DEFECTS IN PROPERTY TAX RECORD:**

**7.     Compliance Requirements:**

- When the county treasurer discovers that any property has been assessed more than once for the same year, the county treasurer shall collect only the tax due and report that fact to the Department of Revenue. (Section 15-16-105, MCA)
- Any time after the original assessment or prior to a sale for delinquent taxes, omissions, errors or defects in the property record may only be corrected by the Department of Revenue. If the correction involves an assessment of property that is the subject of pending litigation with a taxing jurisdiction within the county, the county attorney must be notified of the correction. (Section 15-8-707, MCA)

**(Note: If the Department of Revenue revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared. (Section 15-16-102, MCA))**

**Suggested Audit Procedures:**

- If the county treasurer discovers that any property has been assessed more than once for the same year, determine that the county treasurer collects only the tax due and reports that fact to the Department of Revenue.
- Test selected adjustments that were made to the original assessments and determine that they originated with the Department of Revenue.

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**CORRECTION OF DEFECTS IN PROPERTY TAX RECORD - continued:**

**Suggested Audit Procedures - continued:**

- If litigation was involved, determine that notification was given to the county attorney.

**DELINQUENT PERSONAL PROPERTY TAXES LISTING REMITTED TO BOARD:**

**8.    Compliance Requirement:**

- The county treasurer must prepare and submit to the county commissioners on or before the first Monday of June a list of personal property taxes that are not a lien on real estate that have been delinquent for 5 years or more. The list must show the name and address of the delinquent taxpayer; the amount of the delinquent taxes, plus interest, penalties, and costs, if any; and the date the taxes became delinquent. The list may not include personal property taxes that remain uncollected due to bankruptcy or other litigation. (Section 15-16-701, MCA)

**Suggested Audit Procedure:**

- Determine that the county treasurer is presenting to the county commissioners the required report of personal property taxes that have been delinquent for 5 years or more. Review a copy of the report.

**MUNICIPALITY CERTIFIED SPECIAL ASSESSMENTS:**

**9.    Compliance Requirement:**

- Special assessments that are certified to the county as delinquent by cities and towns must be added to the taxes/assessments receivable and recorded in the appropriate agency account by both the county clerk and recorder and the county treasurer. (Sections 7-6-4423 and 7-12-4183, MCA)

**Suggested Audit Procedure:**

- Review a copy of any delinquent assessment certificates submitted to the county by cities and towns and determine that the delinquent assessments were added to the taxes/assessments receivable in the appropriate agency fund(s) of the county.



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**REMITTANCE OF MONEY TO STATE AND MUNICIPALITIES:**

**10.   Compliance Requirements:**

- The county treasurer must, between the 1st and 20th day of each month, remit to the Department of Revenue all money belonging to the state that was collected by the county treasurer during the preceding month. (Section 15-1-504, MCA) **(Note: Beginning July 1, 2006, motor vehicle collections are remitted separately to the Department of Justice – see below.)**
  - By June 20 of each year, the county treasurer must remit to the Department of Revenue an estimate of all money belonging to the state that was collected by June 15, in addition to the amount collected during the preceding month. In July **(Effective 1/1/2006, By July 15)**, the county treasurer must remit all money belonging to the state that was collected during the remainder of June. (Section 15-1-504, MCA)
- (Note: The Department of Revenue may assess counties an interest charge of 10% a year on all money not remitted within 5 days from the time required. (Section 15-1-504, MCA))**
- **Beginning July 1, 2006**, the county treasurer shall remit to the Department of Justice by the 20th of each month all state money that was collected by the county treasurer due to motor vehicle, vessel, and snowmobile transactions during the preceding month. The remittance must be accompanied by a detailed report upon a form prescribed by the Department of Justice. (Section 15-1-504(3), MCA)

**Suggested Audit Procedures:**

- Test selected remittances by the county treasurer to the state to determine that they were made by the 20th of the month following collection and that they included all money belonging to the state that was collected by the county treasurer during the preceding month.
- In addition, determine that the June 20 remittance included an estimate of all money belonging to the state that was collected by June 15, in addition to all money belonging to the state that was collected by the county treasurer during the preceding month. Determine that collections made in the remainder of June were remitted in July (or by July 15, for FY2006 and after).
- **Beginning July 1, 2006**, determine that all state money for motor vehicle, vessel, and snowmobile transactions was remitted to the Department of Justice by 20<sup>th</sup> of the month following the collection.

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**I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**REMITTANCE OF MONEY TO STATE AND MUNICIPALITIES - continued:**

**11. Compliance Requirements:**

- The county treasurer must, within a reasonable time after collection, compute the amount of taxes due to cities and towns in the county and pay it to the proper custodian of funds for the entity. The lapse of one month after collection of the bulk of the taxes is not a reasonable time. (Section 7-6-4413, MCA) (Cut Bank v. McNamer, 62 Mont. 490, 205 P. 951 (1922))
- When remitting taxes to a city, the county treasurer must break out the amount received from taxpayers as payment for the city's special improvement district assessments. (A.G.O. Number 48, Volume 43)
- Unless a statute provides otherwise, interest, penalties, and costs collected on delinquent taxes follow the tax. Therefore, local government entities authorized to levy taxes are entitled to a pro rata share of the penalties collected on delinquent property taxes by the County Treasurer. (A.G.O. Number 25, Volume 41))

**Suggested Audit Procedures:**

- Test the dates of selected remittances from the county treasurer to city and town treasurers to determine that they were made on a timely basis.
- Test selected remittances from the county treasurer to city and town treasurers and determine that the remittances break out the amount received from taxpayers as payment for the various special improvement districts.
- If applicable, determine that the remittances include interest and penalties collected on delinquent property taxes.

**SCHOOL EQUALIZATION LEVIES:**

**12. Compliance Requirement:**

- If the 33 mill basic county tax for elementary equalization and state BASE funding program support, and other revenues prescribed by Section 20-9-331, MCA, or the 22 mill basic county tax for high school equalization and state BASE funding program support, and other revenues prescribed by Section 20-9-333, MCA, produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the Department of Revenue immediately upon occurrence of the surplus balance and each subsequent month thereafter. The final remittance is due no later than June 20 of the fiscal year for which the levy has been set. (Sections 20-9-331(1)(b) and 20-9-333(1)(b), MCA)

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**I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**SCHOOL EQUALIZATION LEVIES - continued:**

**Suggested Audit Procedure:**

- Determine whether the levies and other revenue sources referenced above are in excess of the amount required to repay a state advance for county equalization. If so determine that excess amounts collected are remitted to the state immediately and that the final remittance is made no later than June 20.

**PROTESTED TAXES:**

**13. Compliance Requirement:**

- The person upon whom a property tax or fee is being imposed under Title 15, Chapter 1, Part 4, MCA, may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested. The protested payment must: (a) be made to the officer designated and authorized to collect it; (b) specify the grounds of protest; and (c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under Section 15-7-111, MCA. (Section 15-1-402(1), MCA)

**Suggested Audit Procedures:**

- Test selected receipts of taxes and fees paid under protest to determine if they were accompanied by written notice as specified above.
- Verify that the protested tax or fee payment was equal to the elements described

**14. Compliance Requirements:**

- All property taxes and fees paid under protest must be deposited to a special protested tax fund (agency fund) and must be retained in the protested tax fund until final determination of any action or suit to recover the taxes, unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to the provisions of Section 15-1-402(5), MCA (Section 15-1-402(4), MCA). A subsidiary record should be kept for each taxpayer.
- **Effective April 25, 2003, and applies retroactively, within the meaning of Section 1-2-109, MCA, to any tax appeal or tax paid under protest after October 31, 2000, except for refunds of property taxes made after October 31, 2000, and before April 25, 2003.** – Property taxes that are levied by the State of Montana against property that is centrally assessed pursuant to Section 15-23-101, MCA,

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# **I.     COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

## **PROTESTED TAXES - continued:**

### **14.   Compliance Requirements - continued:**

(pertaining to property that is operating in more then one county in the state or more than one state) must be remitted by the county treasurer to the state treasurer (Effective April 28, 2005, to the Department of Revenue). (Section 15-1-402(4)(b))

#### **Suggested Audit Procedures:**

- **For an audit of FY 2003 –**
  - Determine if the County made a review of its protested tax fund. If so, verify that any protested tax funds pertaining to centrally assessed property levied by the State have been remitted to the State as noted above. Also, ensure that subsidiary records are kept for each taxpayer noting the amount remitted to the State.
  - Test selected receipts of taxes and fees paid under protest during the year to determine that they are remitted to the State, if applicable, or recorded in a special protested tax fund and retained in that fund until final action or until released as provided by statute, and that subsidiary records are kept for each taxpayer.
- **For an audit after FY 2003 –** Test selected receipts of taxes and fees paid under protest during the year to determine that they are remitted to the State, if applicable, or recorded in a special protested tax fund. Verify that the money is retained in that fund until final action or until released as provided by statute. Also, ensure that subsidiary records are kept for each taxpayer.

### **15.   Compliance Requirements:**

- The governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except for the first-year protest amount. (Section 15-1-402(5)(a), MCA)
- **Effective April 25, 2003, and applies retroactively, within the meaning of Section 1-2-109, MCA, to any tax appeal or tax paid under protest after October 31, 2000, except for refunds of property taxes made after October 31, 2000, and before April 25, 2003.** – The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing

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# **I.     COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

## **PROTESTED TAXES - continued:**

### **15.   Compliance Requirements - continued:**

jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.  
(Section 15-1-402(5)(b), MCA)

#### **Suggested Audit Procedures:**

- Determine whether any taxing jurisdiction affected by the payment of taxes under protest that remains unresolved have demanded that the county treasurer pay all or a portion of the protest taxes to which it is entitled.
- If so, determine that the compliance requirements noted above relating to the years of protest subject to such a demand have been adhered to.

### **16.   Compliance Requirements:**

- If a protested tax action is determined in favor of the protestor, the treasurer must refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest. The interest paid shall be at the rate of interest earned by the pooled investment fund provided for in Section 17-6-203, MCA, for the applicable period. (Section 15-1-402(6)(b), MCA)

**(Note: The county treasurer is not responsible for the amount required to be refunded by the state treasurer. The Department of Revenue shall refund the amount of protested taxes and interest to the tax protester as required by Section 15-1-402(6)(b), MCA. (Section 15-1-402(6)(d), MCA))**

- If the Department of Revenue revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed. (Section 15-1-402(8), MCA)

#### **Suggested Audit Procedures:**

- Compare the amount of selected protested tax payments from the protested tax fund to the certified copy of the final judgment from the state tax appeal board or court. Calculate the interest that was paid on the amount refunded to determine if the rate paid was paid as provided for above.
- If the refund was caused by a revised assessment then determine that no refund of taxes was given if it was for \$5 or less.

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# **I.     COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

## **PROTESTED TAXES - continued:**

### **17.   Compliance Requirement:**

- If an action regarding protested taxes that is brought before the county or state tax appeal board or the district court does not begin within the time specified (90 days of the date of the tax notice per Section 15-1-406(2), MCA) or if the action is determined in favor of the government, the amount of the protested portions of the property tax or fee must be taken from the protest fund and deposited to the credit of the fund or funds to which the tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units. (Section 15-1-402(6)(a), MCA)

### **Suggested Audit Procedures:**

- Test protested taxes remaining in the protest fund and determine that 90 days since the date of the notice has not elapsed without the protestor taking action, or if action has been taken, that there has been no final action ordered by the state tax appeal board or a court.
- Test the distribution of protested taxes to determine if they were distributed to the fund or funds to which the tax belongs, less any pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

## **LIVESTOCK RESERVE FUND TAXES:**

### **18.   Compliance Requirement:**

- The county may deposit up to 5% of the property tax collected each year on livestock in a livestock reserve fund to be used for making refunds for overpayments of property tax on livestock. When the amount in the reserve fund exceeds 10% of the total property tax collected in a year on livestock, the excess must be transferred to the county general fund and included in the next year's county budget. (Section 15-24-926, MCA)

**(Note: The 1999 Legislative Session repealed this section effective January 1, 2003. Therefore, it appears that any money remaining in this fund after January 1, 2003, must be transferred to the county general fund and included in the next year's county budget.)**

### **Suggested Audit Procedure:**

- Determine that all remaining funds in the livestock reserve fund have been transferred to the county general fund.